

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

D'ANGELO ROYSTER,

Plaintiff,

v.

Case No. 2:06-cv-293  
HON. ROBERT HOLMES BELL

GERALD RILEY, et al.,

Defendants.

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**OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S**

**REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on November 14, 2007. The Report and Recommendation was duly served on the parties. The Court has received objections from plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Plaintiff makes a number of objections to the recommendation to dismiss his case. Plaintiff asserts that the Court erred in believing the affidavits of defendants, that his motion for a temporary restraining order and preliminary injunction should have been decided before the motion for summary judgment, discovery should not be stayed, that he was denied due process by defendants, that Court officers have violated their oaths of office, that he was denied the right to present evidence to argue against defendants' motion for summary judgment, that summary judgment is not proper, that plaintiff was denied due process by defendants, and that plaintiff's

Religious Land Use and Institutionalized Persons Act (RLUIPA) claim should not be dismissed. Plaintiff has failed to show that defendants violated his constitutional rights.

Plaintiff was not denied due process rights, equal protection rights, or rights under the Eighth Amendment. Plaintiff similarly failed to support his First Amendment religious claims and his RLUIPA claims. Defendants have established that their policy relating to religious diets is constitutional. Contrary to plaintiff's claim, there exists no evidence from which the Court could conclude that defendants lied when denying plaintiff his request for a religious diet. Moreover, there exists no justification for plaintiff's failure to provide the information to the Court he felt was necessary to respond to defendants' motion. Plaintiff has never explained to the Court what evidence he hoped to discover. Nor has plaintiff explained why he could not present all asserted relevant evidence in a responsive pleading. It is not sufficient for plaintiff to claim that he was denied the right to present evidence without explaining what evidence exists that he was unable to present. Plaintiff has failed to rebut defendants' properly supported motion for summary judgment.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (Docket #95) is approved and adopted as the opinion of the Court.

Date: January 22, 2008

/s/ Robert Holmes Bell

ROBERT HOLMES BELL

CHIEF UNITED STATES DISTRICT JUDGE